

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No.9804 of 2004

Kashinath Gunaji Kadam and Anr. ..Petitioners

vs

The Dy Chief Auditor & Anr. ..Respondents

Ms Nayana Thatte with Mr. M.V.Limaye for the petitioners.
Mr. S.R.Nargolkar Asst.Govt. Pleader, for respondents.

**CORAM: V.G.PALSHIKAR,Acg C.J. ,
& V.M.KANADE, J.**

DATE: JULY 24, 2006.

P.C.:-

By this petition filed in the year 2004, the petitioners seek a mandamus directing the respondents to grant appointment to petitioner No.2 on compassionate ground, as his father had retired voluntarily from the Government service, and therefore, according to the policy then prevailing, he was entitled to such appointment on compassionate ground.

The petitioner could not be granted that appointment when he applied for it as there was ban on recruitment issued by the State Government. Later on the ban was lifted and the policy of granting appointment on compassionate ground was thoroughly revised, according to which such appointment can be granted only to Dependant of an employee who dies while in

Government service. It is to be kept in mind that the grant of compassionate appointment or appointment on compassionate ground by giving preference to the applicant, is an exception under Article 16 of the Constitution and, therefore has to be used as an exception. Keeping this principle in mind, it appears that the State Government has reserved only 5% of the seats for the purpose of appointments to be offered only to persons whose parents or near relations expire in service. The petitioner is therefore not entitled to any such relief . Hence the petition is dismissed.